



## FAIR POLITICAL PRACTICES COMMISSION

P.O. Box 807 • 428 J Street • Sacramento, CA 95812-0807

(916) 322-5660 • Fax (916) 322-0886

July 27, 2001

Steven G. Churchwell  
Livingston & Mattesich  
1201 K Street, Suite 1100  
Sacramento, CA 95814-3938

**Re: Your Request for Informal Assistance  
Our File No. I-01-115**

Dear Mr. Churchwell:

This letter is in response to your request for informal advice regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTION

Does Section 85702 prohibit contributions from a lobbying firm, where the firm has established a committee of three non-lobbyists, each of whom is a principal in the firm, to make all contribution decisions for the firm, with recommendations and input from any attorney in the firm, including lobbyists?

### CONCLUSION

No. Under the circumstances presented, Section 85702 does not prohibit your lobbying firm from making contributions.

### FACTS

Livingston and Mattesich is a law corporation of 23 attorneys, which also employs eight registered lobbyists. Thus, the corporation meets the criteria of a lobbying firm as defined in Chapter 6 of the Political Reform Act.

---

<sup>1</sup> Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18996, of the California Code of Regulations. Informal advice does not provide the requestor with the immunity provided by an opinion or formal written advice. (§ 83114; Reg. 18329, subd. (c)(1).)

You seek advice whether the law firm may contribute without violating Section 85702. In order to avoid any aggregation problems, the firm has established a committee of three non-lobbyists, each of whom is a principal, which will make all contribution decisions for the firm. Any attorney in the firm, as well as any lobbyist, may bring recommendations to the committee for its consideration.

In the past, the corporation has contributed to state and legislative candidates in California. It would like to continue to make contributions to candidates.

Your question is in regard to Proposition 34, specifically section 85702 and its prohibitions on lobbyist contributions.

### ANALYSIS

Section 85702, added to the act by Proposition 34, provides as follows:

"An elected state officer or candidate for elected state office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer."

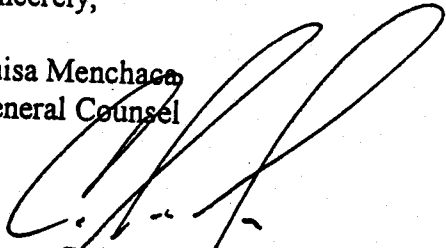
Chapter 6 of the Political Reform Act regulates lobbyist registration, accounting, and reporting obligations, as well as prohibited acts. (Section 86100-86300). A review of these provisions reveals that while some of them apply, by their terms, to lobbyists, lobbying firms, and lobbyist employers, others pertain, by their terms, more selectively. The specific language of Section 85702 refers only to *lobbyists*. By its terms, this section does not apply to prohibit contributions made by lobbying firms.

Accordingly, we conclude that in the circumstances presented, your lobbying firm may continue to make contributions to candidates. We note that the current decision-making structure employed by your firm places final decisions about contributions in the hands of non-lobbyists. We do not believe such a structure, at this time, presents a conflict with Section 85702 by virtue of aggregation problems or problems with direction and control by a lobbyist. We caution, however, that in other areas of the law the Commission has, for instance, found the locus of decision-making to shift from the "oversight" body to the "recommendation body" where, over time, the recommendations of the latter are merely rubber-stamped by the former. (See Reg. 18701, subd. (a)(1)(C).) While no such regulation interpreting Section 85702 has been adopted by the Commission, the Commission may consider this and other issues associated with Section 85702 in a future Commission meeting later this year. We invite you to follow the Commission's progress on this and other regulations associated with Proposition 34 by visiting our website, [www.fppc.ca.gov](http://www.fppc.ca.gov).

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca  
General Counsel



By: C. Scott Tocher  
Staff Counsel, Legal Division

CST:jg  
I:\AdviceLtrs\01-115